

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 566)**

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on June 20, 2017, from Mr. Mark Sale, Chief Executive Officer of B3 Plastics (Petitioner). The Petitioner requests the Board to amend Title 8, California Code of Regulations, to require all disposable plastic bags, 33 to 60 gallons in capacity, be equipped with two carrying handles.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division of Occupational Safety and Health (Division) must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner claims that traditional trash/linen/contractor/recycle/landscape bags are ubiquitous in all industries and are lifted approximately 12 billion times per year by employees with a myriad of job titles. He asserts that lifting the bags by one hand (due to the absence of a secondary handle) leads to numerous injuries throughout California.

The Petitioner provides information on practical reasons a company could benefit from using the proposed bags, including reduced worker injury, improved morale, and lower workers compensation costs. He also includes testimony from an economist, who claims that using the two-handled bags would result in a return on investment of \$25 to every \$1 spent on the bags.

DIVISION'S EVALUATION

The Division's evaluation report dated September 22, 2017, states the Division reviewed the petition requesting the addition of a new requirement within Title 8 to require all employers to use two-handled large-capacity (33-60 gallon) plastic bags.

Handling heavily loaded bags poses a risk of musculoskeletal injury and using two-handled bags may reduce the risk of musculoskeletal injuries in some handling applications. In addition, Sections 3203 and 5110 may not be effective in reducing injuries resulting from the handling of heavily loaded bags. However, a performance-oriented standard that allows the employer to

choose ergonomic interventions, or set of interventions is more appropriate than the proposed prescriptive requirement.

The Division believes the petition should be denied.

STAFF'S EVALUATION

Board staff applauds the Petitioner's efforts to improve workplace safety and health in California, but does not see a need to prescribe that all employers throughout all industries use two-handled bags. In fact, doing so may render the Board non-compliant with Government Code Section 11340.1, which explains that...

[It is the Legislature's intent] to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome [to an individual or entity].

Rulemaking agencies are discouraged from prescribing regulations that provide a sole means of protection from a hazard where there are other options that are equally effective. In the present case, several options exist to prevent awkward postures and over-exertions when lifting bags. Secondary containers, automated lifts, buddy systems, and limitations on the amount of weight that may be placed in a bag before it must be emptied or discarded are a few of the several options available to safety-conscious employers trying to prevent these injuries.

Board staff believes that California's Injury and Illness Prevention Program standard is sufficient to address the hazards identified by the Petitioner and does not recommend further rulemaking for this matter. Where employers find workplace hazards, they are required to address them as appropriate for their circumstances.

CONCLUSION AND ORDER

The Occupational Safety and Health Standards Board has considered the petition of Mr. Mark Sale, Chief Executive Officer of B3 Plastics, to make recommended changes to require all disposable plastic bags, 33 to 60 gallons in capacity, be equipped with two carrying handles. The Board has also considered the recommendations of the Division and Board staff. For reasons stated in the preceding discussion, the Petition is hereby DENIED.